March 30, 2006

Overview of Universal Service Reform Act of 2006

The Universal Service Reform Act of 2006 improves the universal service fund and ensures its continued viability by broadening the base of contributions into the fund, controlling distributions from the fund and allowing use of the fund for broadband deployment. It also makes a number of other much needed changes to improve fund administration.

<u>Contributions</u>:

- Assesses contributions on:
  - Any entity that pays into the universal service fund under the current system (e.g., long distance providers);
  - Any provider of a service that uses telephone numbers, IP addresses or their functional equivalents to provide or enable real time voice communications and in which the voice component is the primary function (e.g., VoIP providers); and
  - Any provider that offers a network connection for a fee to the public (e.g., DSL, cable modem, WiMax and broadband over powerline providers).
- The FCC determines whether to use a contribution methodology based on revenues, numbers or a combination of the two. If the FCC opts for a revenues approach, it can assess contributions based on revenues derived from the provision of intrastate, interstate and foreign communications services.
- The FCC could limit the contributions of providers whose customers typically make a low volume of calls on a monthly basis (e.g., prepaid wireless customers).
- The FCC could exempt from the contribution requirement providers whose communications activities are so limited that their level of contributions to the preservation and advancement of universal service would be de minimis.

<u>Distributions</u>:

- *Broadband deployment*: Declares broadband to be a universal service, so support for the buildout of broadband lines would be explicit. Requires universal service fund recipients, within five years of the date of enactment, to be offering high speed broadband service with a download receiving rate of at least one mbps. The FCC may waive this requirement for providers for whom offering such service would be technically or economically infeasible, and it would automatically be waived for providers that can demonstrate that their cost per line of deploying such service is at least three times the average cost among all universal service fund recipients.

- *Capping the fund*: Caps the total amount of universal service support, other than support for the schools, libraries, rural health care, lifeline, linkup and toll limitation programs. The fund is capped at its current level plus the amount that the switch to wire center averaging and elimination of the parent trap (discussed below) increase demand for universal service support. It is also subject to an annual growth factor based on the annual percentage change in the total number of rural ILEC working loops, if that number is positive, plus the annual percentage change in the Gross Domestic Product-Chained Price Index (GDP-CPI).

- *Anticipating revisions to intercarrier compensation regime*: Provides for an upward adjustment to the cap if the FCC revises the intercarrier compensation regime and shifts some or all of access charge recovery into the universal service fund.

- *Limiting support to a provider's actual costs instead of the costs of the incumbent provider in a service area*: Today, universal service support for a CLEC or wireless provider is based on the support received by the incumbent local exchange carrier in a service area, rather than on the CLEC's or wireless provider's actual costs. Compensating providers based on their actual costs will help contain distributions from the fund.

- *Limiting the number of eligible telecommunications carriers (ETCs)*: Limits the number of ETCs by specifying more precisely the criteria which must be met by ETCs wishing to receive universal service support, including that ETCs must provide universal services throughout their service areas, demonstrate the ability to remain functional in emergency situations and satisfy consumer protection and service quality standards.

- *Switching to wire center averaging*: Changes the calculation methodology for the non-rural high carrier portion of the fund from geographic to wire center averaging while ensuring that no provider will receive less funding after enactment than it is receiving under the current methodology.

- *Consistent treatment for certain price capped providers*: Allows a price capped provider that is regulated on a forward looking cost basis for all services other than universal service fund contributions to opt to have the FCC also calculate its universal service fund contributions on a forward looking cost basis so that price capped companies may be regulated on a price cap/forward looking cost basis for all services.

Other matters:

- *Traffic identification*: Requires carriers to identify all traffic which originates on their networks and requires all intermediate carriers to pass through that identification so that carriers which terminate that traffic can seek appropriate intercarrier compensation.

- *Permanent Anti-Deficiency Act exemption*: Permanently exempts the universal service fund from the Anti-Deficiency Act to avoid the need to renew the exemption annually.

- *Prohibition on primary line restriction*: Prohibits the FCC from adopting a primary line restriction.

- *Rural health care support mechanism*: Clarifies who qualifies as a "health care provider" eligible for rural health care support. Revises the definition of "rural area" to conform with the definition the Department of Agriculture's Rural Utilities Service uses in connection with its administration of the broadband grants and loans program and to grandfather areas which qualified under a previous FCC definition. Bases support for advanced telecommunications services on the difference between the cost of service in an urban area and a rural area, instead of on a flat percentage rate discount in current FCC regulations.

- *Eliminating the parent trap*: The parent trap is an FCC regulation which provides that a carrier which acquires telephone exchanges from an unaffiliated carrier receives universal service support at the same level for which those exchanges were eligible prior to the transfer. Eliminating it will encourage the sale of exchanges to rural carriers.